

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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5 PAYMENTONE CORPORATION,
6 Plaintiff,
7 vs.
8 ZONG, INC.,
9 Defendant.

Case No.: C-11-02186-YGR

**ORDER REGARDING FILING OF
EARLY SUMMARY JUDGMENT
MOTION, MOTION FOR LEAVE TO
DESIGNATE ADDITIONAL TERMS,
AND SETTING DATES FOR CLAIM
CONSTRUCTION AND TUTORIAL**

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12 For the reasons stated during the February 14, 2012 Case Management Conference, the Court
13 hereby DENIES Defendant's request to file an early summary judgment motion, as set forth in its
14 letter brief dated February 9, 2012. Dkt. No. 51. This denial is without prejudice to Defendant filing
15 a summary judgment motion in the normal course following the claim construction hearing.

16 With respect to Defendant's Motion for Leave to Designate Additional Terms for
17 Construction, the Court orders that the parties meet and confer to present five (5) joint terms for
18 construction by the Court. Each party is permitted to identify three (3) additional terms for
19 construction. At the claim construction hearing, the Court will construe only these eleven (11) terms.
20 This Order terminates docket no. 49.

21 Most patent cases turn on the meaning of only a few phrases. Once defined, the case will
22 usually resolve by motion or settlement. If it does not, then the Court will construe any remaining
23 phrases at issue during summary judgment or, at a minimum, before the jury is instructed. Counsel
24 must conduct the presentations at the claim construction hearing. Expert testimony will normally not
25 be needed but all sides may have an expert present to address points outside the intrinsic record
26 should they arise. In the briefing on claim construction and to the extent not previously briefed,
27 please include a precis of the eventual summary judgment issues and how claim construction
28 differences may affect summary judgment.

1 The Court further schedules the claim construction hearing for **May 29, 2012 at 10:00 a.m.**
2 The tutorial is scheduled for **May 16, 2012 at 2:00 p.m.** The parties shall refer to the Court's
3 Standing Order re Patent Cases in preparation for these events.

4 **IT IS SO ORDERED.**

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6 Dated: February 14, 2012
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YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE